

Group II: Claim 39, directed to a process for making paroxetine hydrochloride.

The Examiner states that restriction is proper because the Group II process is unrelated to the Group I compound. This requirement is respectfully traversed. The USPTO would bear no undue burden in examining Group I and Group II in a single application. Accordingly, restriction is not appropriate.

In order to better understand the reason for this belated restriction requirement, a telephone call was placed with Examiner Chang on May 3, 2001. The Examiner explained that the restriction would advance applicants' request for a declaration of interference with U.S. 6,063,927. Specifically, by limiting all claims in the application to either Group I or Group II, all elected claims would correspond to a single count. The non-elected claim(s) would correspond to the "other" count proposed by applicants, which could be the subject of a separate interference.

Applicants drew the Examiner's attention to the fact that the Rules allow for multiple counts in a single interference, and that the U.S. patent 6,063,927 with which applicants seek interference issued with claims to both counts, namely the crystalline paroxetine methane sulfonate and to paroxetine hydrochloride made from the methane sulfonate.

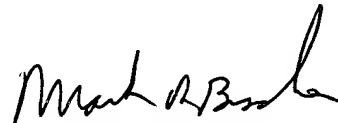
The Examiner acknowledged applicants' position, but advised that restriction is discretionary. Further, the Examiner noted that applicants were free to file a divisional application directed to the non-elected invention in order to

facilitate declaring the second interference directed to the subject matter of the "other" count.

In view of the position of the USPTO, applicants elect with traverse Group I, claims 30-38. Further, though traversed, in order to expedite the declaration of interference, applicants have cancelled non-elected claim 39. A divisional application directed to this subject matter was filed on May 16, 2001, and has been tentatively assigned serial No. 09/855,710.

Should the Examiner have any questions regarding this application, she is encouraged to contact applicants' undersigned representative at telephone No. 703 753 8791.

Respectfully submitted,



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Date